

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 335

BY EDUCATION COMMITTEE

AN ACT

RELATING TO EDUCATION; AMENDING SECTION 33-513, IDAHO CODE, AS AMENDED
IN SECTION 1 OF SENATE BILL NO. 1108, AS ENACTED BY THE FIRST REGULAR
SESSION OF THE SIXTY-FIRST IDAHO LEGISLATURE, TO REVISE PROVISIONS RE-
LATING TO THE EXPENDITURE OR DISTRIBUTION OF CERTAIN MONEYS FOR CERTAIN
TEACHER SALARIES AND TO REVISE PROVISIONS RELATING TO THE DELEGATION
OF CERTAIN AUTHORITY; AMENDING SECTION 33-515, IDAHO CODE, AS AMENDED
IN SECTION 4 OF SENATE BILL NO. 1108, AS ENACTED BY THE FIRST REGULAR
SESSION OF THE SIXTY-FIRST IDAHO LEGISLATURE, TO REVISE PROVISIONS
RELATING TO CERTAIN PROVISIONS IN ANY MASTER AGREEMENT OR NEGOTIATED
CONTRACT AND TO REVISE PROVISIONS RELATING TO A PERIOD OF PROBATION;
AMENDING SECTION 33-515A, IDAHO CODE, AS AMENDED IN SECTION 5 OF SEN-
ATE BILL NO. 1108, AS ENACTED BY THE FIRST REGULAR SESSION OF THE
SIXTY-FIRST IDAHO LEGISLATURE, TO REVISE PROVISIONS RELATING TO CER-
TAIN SUPPLEMENTAL CONTRACTS; AMENDING SECTION 33-1003, IDAHO CODE, AS
AMENDED IN SECTION 12 OF SENATE BILL NO. 1108, AS ENACTED BY THE FIRST
REGULAR SESSION OF THE SIXTY-FIRST IDAHO LEGISLATURE, TO REVISE PRO-
VISIONS RELATING TO THE SPECIAL APPLICATIONS OF EDUCATIONAL SUPPORT
PROGRAM BY PROVIDING PROVISIONS RELATING TO A DECREASE IN AVERAGE DAILY
ATTENDANCE; AMENDING SECTION 33-1272, IDAHO CODE, AS AMENDED IN SECTION
17 OF SENATE BILL NO. 1108, AS ENACTED BY THE FIRST REGULAR SESSION OF
THE SIXTY-FIRST IDAHO LEGISLATURE, TO REVISE A DEFINITION; AMENDING
SECTION 33-1273, IDAHO CODE, AS AMENDED IN SECTION 18 OF SENATE BILL
NO. 1108, AS ENACTED BY THE FIRST REGULAR SESSION OF THE SIXTY-FIRST
IDAHO LEGISLATURE, TO REVISE PROVISIONS RELATING TO THE SELECTION AND
DESIGNATION OF THE LOCAL EDUCATION ORGANIZATION FOR CERTAIN EMPLOY-
EES; AMENDING SECTION 33-1274, IDAHO CODE, AS AMENDED IN SECTION 20 OF
SENATE BILL NO. 1108, AS ENACTED BY THE FIRST REGULAR SESSION OF THE
SIXTY-FIRST IDAHO LEGISLATURE, TO REVISE PROVISIONS RELATING TO MEDI-
ATION AND ESTABLISHING COMPENSATION; AMENDING SECTION 33-1274A, IDAHO
CODE, AS ADDED BY SECTION 21 OF SENATE BILL NO. 1108, AS ENACTED BY THE
FIRST REGULAR SESSION OF THE SIXTY-FIRST IDAHO LEGISLATURE, TO REVISE
PROVISIONS RELATING TO CERTAIN PARTIES FAILING TO RATIFY AND APPROVE AN
AGREEMENT; AMENDING SECTION 33-1275, IDAHO CODE, AS AMENDED IN SECTION
22 OF SENATE BILL NO. 1108, AS ENACTED BY THE FIRST REGULAR SESSION OF
THE SIXTY-FIRST IDAHO LEGISLATURE, TO REVISE PROVISIONS RELATING TO
THE TERMS OF CERTAIN AGREEMENTS OR CONTRACTS; AMENDING SECTION 26 OF
SENATE BILL NO. 1108, AS ENACTED BY THE FIRST REGULAR SESSION OF THE
SIXTY-FIRST IDAHO LEGISLATURE, TO REVISE PROVISIONS RELATING TO THE
DECLARATION OF AN EMERGENCY AND EFFECTIVE DATES; PROVIDING SEVERABIL-
ITY; AND DECLARING AN EMERGENCY.

Be It Enacted by the Legislature of the State of Idaho:

1 SECTION 1. That Section 33-513, Idaho Code, as amended in Section 1 of
 2 Senate Bill No. 1108, as enacted by the First Regular Session of the Sixty-
 3 first Legislature Idaho Legislature, be, and the same is hereby amended to
 4 read as follows:

5 33-513. PROFESSIONAL PERSONNEL. The board of trustees of each school
 6 district including any specially chartered district shall have the follow-
 7 ing powers and duties:

8 1. To employ professional personnel, on written contract in form ap-
 9 proved by the state superintendent of public instruction, conditioned upon
 10 the provisions of section 33-523, Idaho Code, and a valid certificate being
 11 held by such professional personnel at the time of entering upon the duties
 12 thereunder. Should the board of trustees fail to enter into written contract
 13 for the employment of any such person, the state superintendent of public in-
 14 struction shall withhold ensuing apportionments until such written contract
 15 be entered into. When the board of trustees has delivered a proposed con-
 16 tract for the next ensuing year to any such person, such person shall have a
 17 period of time to be determined by the board of trustees in its discretion,
 18 but in no event less than ten (10) days from the date the contract is deliv-
 19 ered, in which to sign the contract and return it to the board. If the board
 20 of trustees does not make a determination as to how long the person has to
 21 sign and return the contract, the default time limit shall be twenty-one (21)
 22 days after it is delivered to the person. Delivery of a contract may be made
 23 only in person or by certified mail, return receipt requested. When delivery
 24 is made in person, delivery of the contract must be acknowledged by a signed
 25 receipt. When delivery is made by certified mail, delivery must be acknowl-
 26 edged by the return of the certified mail receipt from the person to whom the
 27 contract was sent. Should the person willfully refuse to acknowledge re-
 28 ceipt of the contract or the contract is not signed and returned to the board
 29 in the designated period of time, or if no designated period of time is set by
 30 the board, the default time, the board may declare the position vacant.

31 (a) The board of trustees shall withhold the salary of any teacher who
 32 does not hold a teaching certificate valid in this state. No teacher
 33 whose salary is withheld pursuant to this provision shall have the right
 34 to any amounts owed, notwithstanding the provisions of the Idaho wage
 35 claims act or any other provision of law. Provided however, that fol-
 36 lowing a determination by the board that a teacher does not hold a teach-
 37 ing certificate valid in this state, no moneys shall be expended or dis-
 38 tributed by the state department of education or other appropriate en-
 39 tity to the district for the salary of such teacher.

40 (b) The board of trustees shall not contract to require any teacher to
 41 make up time spent in attending any meeting called by the state board
 42 of education or by the state superintendent of public instruction; nor
 43 while attending regularly scheduled official meetings of the state
 44 teachers' association.

45 2. In the case of school districts other than elementary school dis-
 46 tricts, to employ a superintendent of schools for a term not to exceed three
 47 (3) years, who shall be the executive officer of the board of trustees with
 48 such powers and duties as the board may prescribe. The superintendent shall
 49 also act as the authorized representative of the district whenever such is

1 required, unless some other person shall be named by the board of trustees to
2 act as its authorized representative. The board of trustees shall conduct
3 an annual, written formal evaluation of the work of the superintendent of
4 the district. The evaluation shall indicate the strengths and weaknesses
5 of the superintendent's job performance in the year immediately preceding
6 the evaluation and areas where improvement in the superintendent's job
7 performance, in the view of the board of trustees, is called for. For all
8 evaluations conducted after June 30, 2012, at least fifty percent (50%) of
9 the evaluation shall be based on objective measure(s) of growth in student
10 achievement, as determined by the board of trustees.

11 3. To employ through written contract principals who shall hold a valid
12 certificate appropriate to the position for which they are employed, who
13 shall supervise the operation and management of the school in accordance
14 with the policies established by the board of trustees and who shall be under
15 the supervision of the superintendent.

16 4. To employ assistant superintendents, directors, principals and
17 other district administrative employees for a term not to exceed two (2)
18 years. A teacher holding renewable contract status in Idaho pursuant to
19 section 33-515, Idaho Code, immediately previous to such administrative
20 employment shall retain such eligibility. The superintendent, the superin-
21 tendent's designee, or in a school district that does not employ a superin-
22 tendent, the board of trustees, shall conduct an annual, written evaluation
23 of each such employee's performance. For all evaluations conducted after
24 June 30, 2012, at least fifty percent (50%) of the evaluation shall be based
25 on objective measure(s) of growth in student achievement, as determined by
26 the board of trustees. In addition, input from the parents and guardians of
27 students shall be considered as a factor in the evaluation of principals and
28 any other school-based administrative employees' evaluation.

29 5. To suspend, grant leave of absence, place on probation or discharge
30 certificated professional personnel for a material violation of any lawful
31 rules or regulations of the board of trustees or of the state board of edu-
32 cation, or for any conduct which could constitute grounds for revocation of
33 a teaching certificate. Any certificated professional employee, except the
34 superintendent, may be discharged during a contract term under the following
35 procedures:

36 (a) The superintendent or any other duly authorized administrative of-
37 ficer of the school district may recommend the discharge of any certifi-
38 cated employee by filing with the board of trustees written notice spec-
39 ifying the alleged reasons for discharge.

40 (b) Upon receipt of such notice the board, acting through their duly
41 authorized administrative official, shall give the affected employee
42 written notice of the allegations and the recommendation of discharge,
43 along with written notice of a hearing before the board prior to any de-
44 termination by the board of the truth of the allegations.

45 (c) The hearing shall be scheduled to take place not less than six (6)
46 days nor more than twenty-one (21) days after receipt of the notice by
47 the employee. The date provided for the hearing may be changed by mutual
48 consent.

49 (d) The hearing shall be public unless the employee requests in writing
50 that it be in executive session.

(e) All testimony at the hearing shall be given under oath or affirmation. Any member of the board, or the clerk of the board, may administer oaths to witnesses or affirmations by witnesses.

(f) The employee may be represented by legal counsel and/or by a representative of a local or state teachers association.

(g) The chairman of the board or the designee of the chairman shall conduct the hearing.

(h) The board shall cause an electronic record of the hearing to be made or shall employ a competent reporter to take stenographic or stenotype notes of all the testimony at the hearing. A transcript of the hearing shall be provided at cost by the board upon request of the employee.

(i) At the hearing the superintendent or other duly authorized administrative officer shall present evidence to substantiate the allegations contained in such notice.

(j) The employee may produce evidence to refute the allegations. Any witness presented by the superintendent or by the employee shall be subject to cross-examination. The board may also examine witnesses and be represented by counsel.

(k) The affected employee may file written briefs and arguments with the board within three (3) days after the close of the hearing or such other time as may be agreed upon by the affected employee and the board.

(l) Within fifteen (15) days following the close of the hearing, the board shall determine and, acting through their duly authorized administrative official, shall notify the employee in writing whether the evidence presented at the hearing established the truth of the allegations and whether the employee is to be retained, immediately discharged, or discharged upon termination of the current contract.

(m) If the employee appeals the decision of the board of trustees to the district court, the district court may affirm the board's decision or set it aside and remand the matter to the board of trustees upon the following grounds, and shall not set the same aside for any other grounds:

(i) That the findings of fact are not based on any substantial, competent evidence;

(ii) That the board of trustees has acted without jurisdiction or in excess of its authority;

(iii) That the findings by the board of trustees as a matter of law do not support the decision.

(n) The determination of the board of trustees shall be affirmed unless the employee's substantial rights, as that term is used in section 67-5279, Idaho Code, are violated.

6. The board of trustees has the authority to grant any employee's request for a leave of absence. The board may also delegate this authority to the district superintendent or any other individual so designated by the board. If the board delegates this authority to the district superintendent or any other individual, the board shall ratify or nullify the action regarding the request for a leave of absence at the next regularly scheduled board meeting or at a special board meeting should the next regularly scheduled board meeting not be within a period of twenty-one (21) days from the date of such action.

1 7. The board of trustees has the authority to delegate its authority
 2 to the district superintendent or any other individual so designated by the
 3 board. If the board delegates this authority to the district superinten-
 4 dent or any other individual, the board shall ratify or nullify the action
 5 of placing an employee on a period of suspension, or involuntary leave of
 6 absence at the next regularly scheduled board meeting or at a special board
 7 meeting should the next regularly scheduled board meeting not be within a pe-
 8 riod of twenty-one (21) days from the date of such action.

9 (a) Should an employee of the district be in a position where there is
 10 a court order preventing the employee from being in the presence of mi-
 11 nors or students, the district may place such an employee on a period of
 12 unpaid leave of absence or probation due to the employee's inability to
 13 perform the essential functions of the employee's position.

14 SECTION 2. That Section 33-515, Idaho Code, as amended in Section 4 of
 15 Senate Bill No. 1108, as enacted by the First Regular Session of the Sixty-
 16 first Legislature Idaho Legislature, be, and the same is hereby amended to
 17 read as follows:

18 33-515. ISSUANCE OF RENEWABLE CONTRACTS. (1) It is the intent of the
 19 legislature that after January 31, 2011, no new employment contract between
 20 a school district and a certificated employee shall result in the vesting of
 21 tenure, continued expectations of employment or property rights in an em-
 22 ployment relationship. Therefore, no board of trustees shall have the au-
 23 thority to enter into any renewable contract with any certificated or other
 24 employee hired by such district, except as specifically addressed by this
 25 section and section 33-514(3), Idaho Code. For any certificated employees
 26 already holding renewable contract status with a district as of January 31,
 27 2011, the provisions of this section shall apply.

28 (2) At least once annually, the performance of each certificated em-
 29 ployee employed pursuant to a grandfathered renewable contract shall be
 30 evaluated according to criteria and procedures established by the board
 31 of trustees in accordance with section 33-514(4), Idaho Code, and general
 32 guidelines approved by the state board of education. Except as otherwise
 33 provided, the employee employed pursuant to a grandfathered renewable
 34 contract shall have the right to the continued automatic renewal of that
 35 employee's employment contract by giving notice, in writing, of acceptance
 36 of renewal. Such notice shall be given to the board of trustees of the school
 37 district then employing such person not later than the twentieth day of July.
 38 Except as otherwise provided by this paragraph, the board of trustees shall
 39 notify each person entitled to be employed on a grandfathered renewable con-
 40 tract of the requirement that such person must give the notice hereinabove
 41 and that failure to do so may be interpreted by the board as a declination
 42 of the right to automatic renewal or the offer of another contract. Such
 43 notification shall be made, in writing, not later than the first day of July,
 44 in each year, except to those persons to whom the board, prior to said date,
 45 has sent proposed contracts for the next ensuing year, or to whom the board
 46 has given the notice required by this section. These deadlines may not be
 47 altered by contract, including any currently existing or future negotiated
 48 agreement or master contract entered into pursuant to the professional ne-
 49 gotiations act, sections 33-1271 through 33-1276, Idaho Code. ~~Should any~~

~~existing negotiated agreement or master contract contain such a provision as of January 31, 2011, such provision is declared to be null and void and of no force and effect as of January 31, 2011. Should any master agreement or negotiated contract contain a provision which conflicts with provisions of title 33, Idaho Code, such provision in the master agreement or negotiated contract is hereby declared to be null and void and of no force and effect as of January 31, 2011.~~

(3) Any contract automatically renewed under the provisions of this section may be renewed for a shorter term, longer term or the same length of term as the length of term stated in the current contract, and at a greater, lesser or equal salary to that stated in the current contract.

(4) Should the board of trustees determine to reassign an administrative employee who, prior to being employed as an administrative employee was employed pursuant to a renewable contract to a nonadministrative position, the board of trustees, at its discretion, shall employ such nonadministrative employee pursuant to a grandfathered renewable contract. Such contract shall be deemed to have continued in place as if the nonadministrative employee was employed by the district pursuant to a renewable contract since January 31, 2011. Such grandfathered renewable contract is subject to the provisions of this section.

(a) If the board of trustees reassigns an administrative employee to a nonadministrative position, the board shall give written notice to the employee which contains a statement of the reasons for the reassignment. The employee, upon written request to the board, shall be entitled to an informal review of that decision. The process and procedure for the informal review shall be determined by the board of trustees.

(b) Nothing in this section shall prevent the board of trustees from offering a grandfathered renewable contract increasing the salary of any certificated person who is eligible to receive such a contract.

(5) Before a board of trustees can determine not to renew for the unsatisfactory performance of any certificated person who holds a grandfathered renewable contract, such person shall be entitled to a defined period of probation lasting at least six (6) instructional weeks as established by the board, following an observation, evaluation or partial evaluation. This period of probation shall be preceded by a written notice from the board of trustees or its designee with reasons for such probationary period and with provisions for adequate supervision and evaluation of the person's performance during the probationary period. Such period of probation shall not affect the person's grandfathered renewable contract status. Consideration of probationary status for certificated personnel is consideration of the status of an employee within the meaning of section 67-2345, Idaho Code, and the consideration and decision to place an employee on probation may be held in executive session. If the consideration results in probationary status, the individual on probation shall not be named in the minutes of the meeting. A record of the decision shall be placed in the teacher's personnel file.

(6) If the board of trustees takes action to immediately discharge or discharge upon termination of the current contract a certificated person whose contract would otherwise be automatically renewed, the action of the board shall be consistent with the procedures specified in section 33-513(5), Idaho Code, unless the decision to discharge upon termination

1 has been made as part of a reduction in force, or the decision to immediately
2 discharge has been made pursuant to section 33-515B, Idaho Code.

3 (7) If the board of trustees determines to change the length of the term
4 stated in the current contract or reduce the salary of a certificated person
5 whose contract is being automatically renewed, nothing herein shall require
6 any due process proceedings or probationary period.

7 (8) If the board of trustees, for reason of a reduction in force, for the
8 ensuing contract year determines not to renew the grandfathered renewable
9 contract of a certificated person whose contract would otherwise be automat-
10 ically renewed, nothing herein shall require any probationary period.

11 SECTION 3. That Section 33-515A, Idaho Code, as amended in Section 5 of
12 Senate Bill No. 1108, as enacted by the First Regular Session of the Sixty-
13 first Legislature Idaho Legislature, be, and the same is hereby amended to
14 read as follows:

15 33-515A. SUPPLEMENTAL CONTRACTS. (1) In addition to the provisions of
16 sections 33-514 and 33-515, Idaho Code, a board of trustees may enter into
17 supplemental contracts to provide extra duty assignments for certificated
18 employees. An extra duty assignment is, and supplemental contracts may be
19 used for, an assignment which is not part of a certificated employee's regu-
20 lar teaching duties. Any such supplemental extra duty contract shall be sep-
21 arate and apart from a category A, B or a grandfathered renewable contract,
22 and no property rights shall attach to a supplemental extra duty contract.
23 The supplemental extra duty contract shall be in a form approved by the state
24 superintendent of public instruction.

25 (2) In addition to the provisions of sections 33-514 and 33-515, Idaho
26 Code, a board of trustees may enter into supplemental contracts to provide
27 extra day assignments for certificated employees. An extra day assignment
28 is an assignment of days of service in addition to the standard contract
29 length used for the majority of certificated employees of the district. Such
30 additional days may or may not be in service of the same activities of the
31 employee's regular teaching duties. Any supplemental contract providing
32 extra day assignments entered into by a board of trustees pursuant to this
33 subsection (2) shall provide the same rights to due process and procedures
34 related thereto, as provided by the underlying contract to which the supple-
35 mental contract is added. For purposes of this section the term "underlying
36 contract" shall mean either a category A contract or a category B contract
37 or a grandfathered renewable contract. Any such contract shall be separate
38 and apart from a category A, B or a grandfathered renewable contract and
39 no property rights shall attach to a supplemental extra day contract. The
40 supplemental extra day contract shall be in a form approved by the state
41 superintendent of public instruction.

42 SECTION 4. That Section 33-1003, Idaho Code, as amended in Section 12 of
43 Senate Bill No. 1108, as enacted by the First Regular Session of the Sixty-
44 first Idaho Legislature, be, and the same is hereby amended to read as fol-
45 lows:

46 33-1003. SPECIAL APPLICATIONS OF EDUCATIONAL SUPPORT PRO-
47 GRAM. Decrease in Average Daily Attendance. -- From the effective date of

1 this act through June 30, 2011, any school district that has a decrease in
 2 total average daily attendance of one percent (1%) of its average daily
 3 attendance in the then current school year from the total average daily
 4 attendance used for determining the allowance in the educational support
 5 program for the school year immediately preceding, the allowance of funds
 6 from the educational support program may be based on the average daily atten-
 7 dance of the school year immediately preceding, less one percent (1%). When
 8 this provision is applied, the decrease in average daily attendance shall be
 9 proportionately distributed among the various categories of support units
 10 that are appropriate for the district.

11 (1) Application of Support Program to Separate Schools/Attendance
 12 Units in District.

13 (a) Separate Elementary School. -- Any separate elementary school
 14 shall be allowed to participate in the educational support program as
 15 though the school were the only elementary school operated by the dis-
 16 trict.

17 (b) Hardship Elementary School. -- Upon application of the board of
 18 trustees of a school district, the state board of education is empow-
 19 ered to determine that a given elementary school or elementary schools
 20 within the school district, not otherwise qualifying, are entitled
 21 to be counted as a separate elementary school as defined in section
 22 33-1001, Idaho Code, when, in the discretion of the state board of edu-
 23 cation, special conditions exist warranting the retention of the school
 24 as a separate attendance unit and the retention results in a substantial
 25 increase in cost per pupil in average daily attendance above the average
 26 cost per pupil in average daily attendance of the remainder of the dis-
 27 trict's elementary grade school pupils. An elementary school operating
 28 as a previously approved hardship elementary school shall continue to
 29 be considered as a separate attendance unit, unless the hardship status
 30 of the elementary school is rescinded by the state board of education.

31 (c) Separate Secondary School. -- Any separate secondary school shall
 32 be allowed to participate in the educational support program as though
 33 the school were the only secondary school operated by the district.

34 (d) Elementary/Secondary School Attendance Units. -- Elementary
 35 grades in an elementary/secondary school will be funded as a separate
 36 attendance unit if all elementary grades served are situated more than
 37 ten (10) miles distance from both the nearest like elementary grades
 38 within the same school district and from the location of the office
 39 of the superintendent of schools of such district, or from the office
 40 of the chief administrative officer of such district if the district
 41 employs no superintendent of schools. Secondary grades in an elemen-
 42 tary/secondary school will be funded as a separate attendance unit if
 43 all secondary grades served are located more than fifteen (15) miles by
 44 an all-weather road from the nearest like secondary grades operated by
 45 the district.

46 (e) Hardship Secondary School. -- Any district which operated two (2)
 47 secondary schools separated by less than fifteen (15) miles, but which
 48 district was created through consolidation subsequent to legislative
 49 action pursuant to chapter 111, laws of 1947, and which school buildings

1 were constructed prior to 1935, shall be entitled to count the schools
2 as separate attendance units.

3 (f) Minimum Pupils Required. -- Any elementary school having less than
4 ten (10) pupils in average daily attendance shall not be allowed to par-
5 ticipate in the state or county support program unless the school has
6 been approved for operation by the state board of education.

7 (2) Remote Schools. -- The board of trustees of any Idaho school dis-
8 trict which operates and maintains a school which is remote and isolated from
9 the other schools of the state because of geographical or topographical con-
10 ditions may petition the state board of education to recognize and approve
11 the school as a remote and necessary school. The petition shall be in form
12 and content approved by the state board of education and shall provide such
13 information as the state board of education may require. Petitions for the
14 recognition of a school as a remote and necessary school shall be filed annu-
15 ally at least ninety (90) days prior to the date of the annual meeting of the
16 board of trustees as established in section 33-510, Idaho Code.

17 Within forty-five (45) days after the receipt of a petition for the
18 recognition of a remote and necessary school, the state board of educa-
19 tion shall either approve or disapprove the petition and notify the board
20 of trustees of its decision. Schools which the state board of education
21 approves as being necessary and remote shall be allowed adequate funding
22 within the support program for an acceptable educational program for the
23 students of the school. In the case of a remote and necessary secondary
24 school, grades 7-12, the educational program shall be deemed acceptable
25 when, in the opinion of the state board of education, the accreditation stan-
26 dard relating to staff size, established in accordance with section 33-119,
27 Idaho Code, has been met. The final determination of an acceptable program
28 and adequate funding in the case of a remote and necessary elementary school
29 shall be made by the state board of education.

30 (3) Support Program When District Boundaries are Changed.

31 (a) In new districts formed by the division of a district, the support
32 program computed for the district, divided in its last year of opera-
33 tion, shall be apportioned to the new districts created by the division,
34 in the proportion that the average daily attendance of pupils, elemen-
35 tary and secondary combined, residing in the area of each new district
36 so created, is to the average daily attendance of all pupils, elementary
37 and secondary combined, in the district divided in its last year of op-
38 eration before the division.

39 (b) When boundaries of districts are changed by excision or annexation
40 of territory, the support program of any district from which territory
41 is excised for the last year of operation before such excision shall be
42 divided, and apportioned among the districts involved, as prescribed in
43 paragraph (a) of this subsection.

44 (c) In new districts formed by consolidation of former districts after
45 January 1, 2007, the support program allowance, for a seven (7) year pe-
46 riod following the formation of the new district, shall not be less than
47 the combined support program allowances of the component districts in
48 the last year of operation before consolidation. After the expiration
49 of this period, the state department of education shall annually cal-
50 culate the number of support units that would have been generated had

1 the previous school districts not consolidated. All applicable state
 2 funding to the consolidated district shall then be provided based on a
 3 support unit number that is halfway between this figure and the actual
 4 support units, provided that it cannot be less than the actual support
 5 units.

6 SECTION 5. That Section 33-1272, Idaho Code, as amended in Section 17 of
 7 Senate Bill No. 1108, as enacted by the First Regular Session of the Sixty-
 8 first Legislature Idaho Legislature, be, and the same is hereby amended to
 9 read as follows:

10 33-1272. DEFINITIONS. Definition of terms as used in this act:

11 1. "Professional employee" means any certificated employee of a school
 12 district, including charter districts; provided, however, that superinten-
 13 dents, supervisors or principals may be excluded from the professional em-
 14 ployee group if a negotiation agreement between the board and local educa-
 15 tion organization so specifies.

16 2. "Local education organization" means any local district organ-
 17 ization duly chosen and selected by a majority of the professional em-
 18 ployees as their representative organization for negotiations under this
 19 act. For the purposes of this definition, "majority" shall mean one (1)
 20 nonadministrative certificated professional employee more than fifty per-
 21 cent (50%) or greater of the nonadministrative professional employees in the
 22 district.

23 3. "Negotiations" means meeting and conferring in good faith in open
 24 session by a local board of trustees and the authorized local education or-
 25 ganization, or the respective designated representatives of both parties,
 26 for the purpose of reaching an agreement related to the compensation of pro-
 27 fessional employees.

28 4. "Compensation" means salary and benefits for the professional em-
 29 ployee.

30 5. "Benefits" includes employee insurance, leave time and sick leave
 31 benefits.

32 SECTION 6. That Section 33-1273, Idaho Code, as amended in Section 18 of
 33 Senate Bill No. 1108, as enacted by the First Regular Session of the Sixty-
 34 first Legislature Idaho Legislature, be, and the same is hereby amended to
 35 read as follows:

36 33-1273. DESIGNATION OF THE LOCAL EDUCATION ORGANIZATION -- DESIGNA-
 37 TION OF REPRESENTATIVES -- OBLIGATION TO NEGOTIATE. (1) The local education
 38 organization selected by a majority of the qualifying professional employ-
 39 ees shall be the exclusive representative for all professional employees in
 40 that district for purposes of negotiations.

41 ~~(a) At the commencement of each school year, the local education as-~~
 42 ~~sociation identified in the agreement from the prior year, if such~~
 43 ~~existed, shall certify to the board of trustees that the local education~~
 44 ~~association has been selected and designated as the local education~~
 45 ~~organization for the professional employees of the district. This cer-~~
 46 ~~tification shall be provided in writing on a form agreed upon between~~
 47 ~~the parties as one (1) of the options detailed below. The purpose of~~

~~such certification is to provide the district's administration and board with notice of the appropriate entity for the administration and board to work with relating to personnel matters.~~

~~(b)~~ Within ten (10) days of the date a request for negotiations is initiated by either the local education organization or the board of trustees or its designee, the local education organization must provide proof that it has been duly chosen by a majority of the professional employees of the district as their representative organization for negotiations under this act. Such proof may be:

(i) A list of certificated professional employees, who would be subject to the agreement, who are members of the local education organization as of the date that the request for negotiations is initiated; or

(ii) Other evidence that the professional employees have chosen and selected the local education organization as their representative organization as of the date that the request for negotiations is initiated.

~~(eb)~~ If the local education organization or entity seeking to be declared the local education organization cannot provide evidence that the majority of the professional employees have chosen and selected it as the representative organization, the district shall have no obligation or authority to enter into negotiations as provided in this act.

(2) The individual or individuals selected to negotiate for the professional employees shall be a member of the organization designated to represent the professional employees and shall be a certificated professional employee of the local school district. However, in the event a local board of trustees chooses to designate any individual(s) other than the superintendent or elected trustee(s) of the school district as its representative(s) for negotiations, the local educational organization is authorized to designate any individual(s) of its choosing to act as its representative(s) for negotiations. A local board of trustees or its designated representative(s) shall negotiate matters covered pursuant to section 33-1272, Idaho Code, only with the local education organization or its designated representative(s).

(3) Should there be no entity that qualifies as a local education organization by May 10, the board has no obligation or authority to negotiate as required under this act, and may establish compensation for professional employees for the ensuing school year as it deems appropriate.

SECTION 7. That Section 33-1274, Idaho Code, as amended in Section 20 of Senate Bill No. 1108, as enacted by the First Regular Session of the Sixty-first Legislature Idaho Legislature, be, and the same is hereby amended to read as follows:

33-1274. MEDIATION -- ESTABLISHMENT OF COMPENSATION TERMS UPON FAILURE TO AGREE. (1) In the event the parties in negotiations are not able to come to an agreement upon compensation for professional employees by May 10, if agreed to by both parties, a mediator may be appointed. The issue or issues in dispute shall be submitted to mediation in an effort to induce the representatives of the board of trustees and the local education organization to resolve the conflict. The procedure for appointment of and compensa-

tion for the mediator shall be determined by both parties. Mediation is non-binding, and the recommendation or recommendations of the mediator, if any, shall not be construed as having any force or effect.

(2) If no agreement regarding compensation has been reached by the parties on or before June 10, the board of trustees, at a meeting held no later than June 22, shall establish compensation for professional employees for the ensuing school year as it deems appropriate. Provided however, that such compensation shall reflect the last best good faith offer proposed by the board during negotiations.

(3) If the board of trustees establishes compensation pursuant to subsection (2) of this section, no hearing need be held by the board.

(4) The dates of June 10 and June 22 are not arbitrary or discretionary dates that may be modified by agreement of the parties. The only instance in which the days may be extended is if June 10 or June 22 fall on a Sunday. In such situation the board of trustees may, at its discretion, extend these days to June 11 or June 23.

SECTION 8. That Section 33-1274A, Idaho Code, as added by Section 21 of Senate Bill No. 1108, as enacted by the First Regular Session of the Sixty-first Legislature Idaho Legislature, be, and the same is hereby amended to read as follows:

33-1274A. PROCEDURES UPON AGREEMENT. (1) In the event the parties in negotiations agree regarding compensation of professional employees at any time prior to June 10, such agreement shall be placed in writing by the persons who negotiated on behalf of the board of trustees and the local education organization. Such written agreement shall be offered for approval and ratification by the local education organization at an open meeting on or before June 15. If such written agreement is approved and ratified by the local education organization on or before June 15, it shall thereafter be approved or disapproved by the board of trustees at a board meeting held on or before June 22.

(2) Should the local education association or the board of trustees fail to ratify and approve the written agreement as provided for in this section, the board of trustees shall establish other compensation terms, as independently determined by the board and not controlled by the terms which failed ratification, for professional employees as provided in section 33-1274, Idaho Code. Provided however, that such compensation shall reflect the last best good faith offer proposed by the board during negotiations.

SECTION 9. That Section 33-1275, Idaho Code, as amended in Section 22 of Senate Bill No. 1108, as enacted by the First Regular Session of the Sixty-first Legislature Idaho Legislature, be, and the same is hereby amended to read as follows:

33-1275. TERMS OF AGREEMENTS. (1) All negotiated agreements or master contracts, by any name or title, entered into pursuant to the provisions of this act, shall have a term of July 1 through June 30 of the ensuing fiscal year. The board of trustees shall not have the authority to enter into any agreement negotiated under the provisions of this act that has any clause or provision which allows for such agreement to be in any force or effect for

1 multiple years or indefinitely, or otherwise does not expire on its own terms
2 on or before June 30 of the ensuing fiscal year.

3 (2) Any agreement or contract previously entered pursuant to the pro-
4 visions of sections 33-1271 through 33-1276, Idaho Code, shall be deemed
5 to expire as of June 30, 2011, regardless of any evergreen, continuation
6 or other clause included in such contract which provides for continuation
7 beyond June 30, 2011. In addition, any term of any existing agreement which
8 conflicts with the current provisions of title 33, Idaho Code, is hereby
9 declared void and unenforceable from the date of July 1, 2011. Provided
10 however, that should any master agreement or negotiated contract contain a
11 provision which conflicts with the provisions of title 33, Idaho Code, such
12 provision in the master agreement or negotiated contract is hereby declared
13 to be null and void and of no force and effect as of January 31, 2011.

14 SECTION 10. That Section 26 of Senate Bill No. 1108, as enacted by the
15 First Regular Session of the Sixty-first Idaho Legislature, be, and the same
16 is hereby amended to read as follows:

17 SECTION 26. ~~An emergency existing therefor, which emergency is hereby~~
18 ~~declared to exist, Sections 1, 2, 3, 4, 5, 7, 8, 9, 13, 14, 15, 16, 17, 18,~~
19 ~~19, 20, 21, 22, 23, 24 and 25 of this act shall be in full force and effect on~~
20 ~~and after passage and approval. Sections 6, 10, 11 and 12, shall be in full~~
21 ~~force and effect on and after July 1, 2011~~ An emergency existing therefor,
22 which emergency is hereby declared to exist, this act shall be in full force
23 and effect on and after its passage and approval.

24 SECTION 11. SEVERABILITY. The provisions of this act are hereby de-
25 clared to be severable and if any provision of this act or the application
26 of such provision to any person or circumstance is declared invalid for any
27 reason, such declaration shall not affect the validity of the remaining por-
28 tions of this act.

29 SECTION 12. An emergency existing therefor, which emergency is hereby
30 declared to exist, this act shall be in full force and effect on and after its
31 passage and approval.